

*** PUBLIC DOCKET ***

~,APPEAL,CMP

U.S. District Court
Southern District of Indiana (Indianapolis)
CIVIL DOCKET FOR CASE #: 1:14-cv-01589-TWP-DML

RED BARN MOTORS, INC. et al v. NEXTGEAR
CAPITAL, INC. et al
Assigned to: Judge Tanya Walton Pratt
Referred to: Magistrate Judge Debra McVicker Lynch
Case in other court: Louisiana Middle, 3:13-cv-00778
Cause: 28:1332 Diversity-Breach of Contract

Date Filed: 09/29/2014
Jury Demand: Plaintiff
Nature of Suit: 190 Contract: Other
Jurisdiction: Diversity

Plaintiff

RED BARN MOTORS, INC.

represented by Cassie E. Felder
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Plaintiff

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Plaintiff

MATTINGLY AUTO SALES, INC.

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V.

Defendant

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Defendant

NEXTGEAR CAPITAL, INC.
f/k/a DEALER SERVICES
CORPORATION, successor by merger
with Manheim Automotive Financial
Services, Inc.

represented by David J. Jurkiewicz
(See above for address)
ATTORNEY TO BE NOTICED

Jason S. McCarter
(See above for address)

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| Date Filed | # | Docket Text |
|------------|--------------------------|--|
| 12/03/2013 | <u>1</u> | COMPLAINT against Louisiana's First Choice Auto Auction, L.L.C., Nextgear Capital Inc., as successor-in-interest to Dealer Services Corporation (Filing fee \$ 400 receipt number 053N-1021333.), filed by Red Barn Motors, Inc., Barbara A. Richardson, Donald B Richardson. (Attachments: # <u>1</u> Attachment Summons, # <u>2</u> Attachment Civil Cover Sheet)(Felder, Cassie) (Attachment 2 replaced on 12/4/2013) (CGP). [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 12/03/2013) |
| 12/04/2013 | <u>2</u> | Summons Submitted (Attachments: # <u>1</u> Attachment Summons)(Felder, Cassie) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 12/04/2013) |
| 12/05/2013 | <u>3</u> | Summons Issued as to Louisiana's First Choice Auto Auction, L.L.C., Nextgear Capital, Inc.. (NOTICE: Counsel shall print and serve both the summons and all attachments in accordance with Federal Rule of Civil Procedure 4.) (CGP) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 12/05/2013) |
| 01/14/2014 | <u>4</u> | SUMMONS Returned Executed by Red Barn Motors, Inc.. Nextgear Capital, Inc. served on 12/26/2013, answer due 1/16/2014. (Felder, Cassie) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 01/14/2014) |
| 01/14/2014 | <u>5</u> | SUMMONS Returned Executed by Red Barn Motors, Inc.. Louisiana's First Choice Auto Auction, L.L.C. served on 1/3/2014, answer due 1/24/2014. (Felder, Cassie) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 01/14/2014) |

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| | | 01/14/2014) |
| 01/16/2014 | 6 | MOTION for Extension of Time to File Answer to 1 Complaint, by Nextgear Capital, Inc.. (Cheatham, Robin) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 01/16/2014) |
| 01/16/2014 | | MOTION(S) REFERRED: 6 MOTION for Extension of Time to File Answer to 1 Complaint, . This motion is now pending before the USMJ. (CGP) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 01/16/2014) |
| 01/23/2014 | 7 | ORDER granting 6 Motion for Extension of Time to Answer 1 Complaint by Nextgear Capital, Inc. Answer due by 02/06/2014. Signed by Magistrate Judge Richard L. Bourgeois, Jr on 01/23/2014. (CGP) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 01/23/2014) |
| 01/29/2014 | 8 | MOTION for Extension of Time to File Responsive Pleadings by Louisiana's First Choice Auto Auction, L.L.C.. (Attachments: # 1 Proposed Pleading;) (Brener, Lisa) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 01/29/2014) |
| 01/30/2014 | | MOTION(S) REFERRED: 8 MOTION for Extension of Time to File Responsive Pleadings. This motion is now pending before the USMJ. (CGP) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 01/30/2014) |
| 02/03/2014 | 9 | ORDER granting 8 Motion for Extension of Time to Filed Responsive Pleadings. Louisiana's First Choice Auto Auction, L.L.C. is granted an extension of time until 02/10/2014 to file responsive pleadings. Signed by Magistrate Judge Richard L. Bourgeois, Jr on 02/03/2014. (CGP) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 02/03/2014) |
| 02/03/2014 | | Set/Reset Deadlines: Louisiana's First Choice Auto Auction, L.L.C. answer due 2/10/2014. (CGP) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 02/03/2014) |
| 02/06/2014 | 10 | MOTION to Dismiss for Failure to State a Claim by Nextgear Capital, Inc.. (Attachments: # 1 Memorandum in Support, # 2 Exhibit Ex 1-3 to Memo in Support, # 3 Exhibit Proposed Order)(Cheatham, Robin) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 02/06/2014) |
| 02/06/2014 | 11 | MOTION to Transfer Case to United States District Court Southern District of Indiana by Nextgear Capital, Inc.. (Attachments: # 1 Memorandum in Support, # 2 Exhibit Ex 1-2 to Memo in Support)(Cheatham, Robin) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 02/06/2014) |
| 02/10/2014 | 12 | MOTION to Dismiss for Failure to State a Claim Upon which relief May be granted, or Alternatively, Motion to Dismiss the Individual Plaintiffs and Motion for a More Definite Statement by Louisiana's First Choice Auto Auction, L.L.C.. (Attachments: # 1 Memorandum in Support, # 2 Proposed Pleading;)(Brener, Lisa). Added MOTION to Dismiss on 2/10/2014 (CGP). Added MOTION for More Definite Statement on 2/10/2014 (CGP). Modified on 2/10/2014 to edit text (CGP). [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 02/10/2014) |

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| 02/26/2014 | <u>13</u> | MEMORANDUM in Opposition to <u>11</u> MOTION to Transfer Case to United States District Court Southern District of Indiana filed by Louisiana's First Choice Auto Auction, L.L.C.. (Brener, Lisa) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 02/26/2014) |
| 02/27/2014 | <u>14</u> | MEMORANDUM in Opposition to <u>11</u> MOTION to Transfer Case to United States District Court Southern District of Indiana filed by All Plaintiffs. (Melder, Joshua) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 02/27/2014) |
| 02/27/2014 | <u>15</u> | MEMORANDUM in Opposition to <u>10</u> MOTION to Dismiss for Failure to State a Claim filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit)(Melder, Joshua) (Attachment 1 replaced on 2/28/2014) (SMG). [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 02/27/2014) |
| 03/03/2014 | <u>16</u> | MEMORANDUM in Opposition to <u>12</u> MOTION to Dismiss for Failure to State a Claim Upon which relief May be granted, or Alternatively, Motion to Dismiss the Individual Plaintiffs and Motion for a More Definite Statement MOTION to Dismiss the Individual Plaintiffs MOTION for More Definite Statement filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit)(Melder, Joshua) (Attachment 1 replaced on 3/5/2014) (CGP). [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 03/03/2014) |
| 03/10/2014 | <u>17</u> | REPLY to <u>12</u> MOTION to Dismiss for Failure to State a Claim Upon which relief May be granted, or Alternatively, Motion to Dismiss the Individual Plaintiffs and Motion for a More Definite Statement MOTION to Dismiss the Individual Plaintiffs MOTION for More Definite Statement, <u>16</u> Memorandum in Opposition to Motion, filed by Louisiana's First Choice Auto Auction, L.L.C.. (Attachments: # <u>1</u> Exhibit)(Brener, Lisa) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 03/10/2014) |
| 03/10/2014 | <u>18</u> | MOTION for Leave to File File Reply Memorandum by NextGear Capital, Inc. to Plaintiffs' Memorandum in Opposition of the Motion to Transfer by Nextgear Capital, Inc.. (Attachments: # <u>1</u> Proposed Pleading;)(Cheatham, Robin) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 03/10/2014) |
| 03/11/2014 | <u>19</u> | MOTION for Leave to File Reply Memorandum to Plaintiffs' Opposition to Motion to Dismiss by Louisiana's First Choice Auto Auction, L.L.C.. (Attachments: # <u>1</u> Proposed Pleading; Order, # <u>2</u> Proposed Pleading; Reply Memorandum, # <u>3</u> Exhibit Exhibit)(Brener, Lisa) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 03/11/2014) |
| 03/11/2014 | <u>20</u> | MOTION for Leave to File Supplemental Opposition to NextGear's Motion to Transfer by Louisiana's First Choice Auto Auction, L.L.C.. (Attachments: # <u>1</u> Proposed Pleading; Order, # <u>2</u> Proposed Pleading; Supplemental Opposition) (Brener, Lisa) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 03/11/2014) |
| 03/19/2014 | <u>21</u> | MOTION for Leave to File Reply Memorandum by NextGear Capital, Inc. to Plaintiffs' Memorandum in Opposition of the Motion to Dismiss by Nextgear |

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| | | Capital, Inc.. (Attachments: # 1 Proposed Pleading;)(Cheatham, Robin) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 03/19/2014) |
| 03/19/2014 | 22 | MOTION for Leave to File Reply Memorandum by NextGear Capital, Inc. to Louisiana's First Choice Auto Auction's Memornadum in Opposition to the Motion to Transfer and Supplemental Opposition to the Motion to Transfer by Nextgear Capital, Inc.. (Attachments: # 1 Proposed Pleading; Reply Memo, # 2 Exhibit 1)(Cheatham, Robin) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 03/19/2014) |
| 04/03/2014 | 23 | MOTION for Oral Hearing for a re 12 MOTION to Dismiss for Failure to State a Claim Upon which relief May be granted, or Alternatively, Motion to Dismiss the Individual Plaintiffs and Motion for a More Definite Statement MOTION to Dismiss the Individual Plaintiffs MOTION for More Definite Statement, 11 MOTION to Transfer Case to United States District Court Southern District of Indiana , 10 MOTION to Dismiss for Failure to State a Claim by All Plaintiffs. (Attachments: # 1 Memorandum in Support)(Melder, Joshua) Modified on 4/3/2014 to edit text (CGP). [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 04/03/2014) |
| 04/10/2014 | 24 | MEMORANDUM in Opposition to 23 MOTION for Oral Hearing re 12 MOTION to Dismiss for Failure to State a Claim Upon which relief May be granted, or Alternatively, Motion to Dismiss the Individual Plaintiffs and Motion for a More Definite Statement filed by Nextgear Capital, Inc.. (Cheatham, Robin) Modified on 4/10/2014 to edit text (LLH). [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 04/10/2014) |
| 05/12/2014 | 25 | MOTION for Leave to File Amended Complaint, by All Plaintiffs. (Attachments: # 1 Exhibit Exhibit A, # 2 Exhibit Exhibit B & C)(Melder, Joshua) Modified on 5/13/2014 to edit text(CGP). [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 05/12/2014) |
| 05/13/2014 | | MOTION(S) REFERRED: 25 MOTION for Leave to File Amended Complaint. This motion is now pending before the USMJ. (CGP) Modified on 5/13/2014 to edit text (CGP). [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 05/13/2014) |
| 05/28/2014 | 26 | RESPONSE in Opposition to 25 Plaintiffs' Motion for Leave to File Amended Complaint filed by Nextgear Capital, Inc.. (Cheatham, Robin) Modified on 5/29/2014 to edit text (CGP). [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 05/28/2014) |
| 06/10/2014 | 27 | RULING AND ORDER granting 18 MOTION for Leave to File Reply Memorandum to Plaintiffs' Memorandum in Opposition of the Motion to Transfer, 19 MOTION for Leave to File Reply Memorandum to Plaintiffs' Opposition to Motion to Dismiss, 20 MOTION for Leave to File Supplemental Opposition to NextGear's Motion to Transfer, 21 MOTION for Leave to File Reply Memorandum to Plaintiffs' Memorandum in Opposition of the Motion to Dismiss and 22 MOTION for Leave to File Reply Memorandum to Louisiana's First Choice Auto Auction in Opposition to the Motion to Transfer and Supplemental Opposition to the Motion to Transfer. |

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| | | Signed by Chief Judge Brian A. Jackson on 06/09/2014. (CGP) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 06/10/2014) |
| 06/10/2014 | 28 | REPLY MEMORANDUM to 14 Memorandum in Opposition to 11 MOTION to Transfer Case to United States District Court Southern District of Indiana filed by Nextgear Capital, Inc. (CGP) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 06/10/2014) |
| 06/10/2014 | 29 | REPLY MEMORANDUM to 16 Memorandum in Opposition to 12 MOTION to Dismiss filed by Louisiana's First Choice Auto Auction, L.L.C. (Attachments: # 1 Exhibit 1)(CGP) Modified on 6/10/2014 to edit text(CGP). (Main Document 29 replaced on 6/10/2014) (CGP). [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 06/10/2014) |
| 06/10/2014 | 30 | Supplemental MEMORANDUM in Opposition to 11 MOTION to Transfer Case to United States District Court Southern District of Indiana filed by Louisiana's First Choice Auto Auction, L.L.C.(CGP) Modified on 6/10/2014 to edit text (CGP). [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 06/10/2014) |
| 06/10/2014 | 31 | REPLY MEMORANDUM to 15 Memorandum in Opposition to Motion 10 MOTION to Dismiss for Failure to State a Claim filed by Nextgear Capital, Inc. (Attachments: # 1 Exhibit 1)(CGP) Modified on 6/10/2014 to edit text (CGP). [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 06/10/2014) |
| 06/10/2014 | 32 | REPLY MEMORANDUM to 13 Memorandum in Opposition to 11 MOTION to Transfer Case and 30 Supplemental Opposition to the Motion to Transfer filed by Nextgear Capital, Inc. (Attachments: # 1 Exhibit 1)(CGP) Modified on 6/17/2014 to edit text (CGP). [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 06/10/2014) |
| 06/27/2014 | 33 | RULING and ORDER granting 23 Motion for Oral Hearing. The parties shall appear before the undersigned for a hearing on the pending motions on Tuesday, 7/8/2014 at 9:30 AM in Courtroom 2 before Chief Judge Brian A. Jackson. Signed by Chief Judge Brian A. Jackson on 6/27/2014. (JDL) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 06/27/2014) |
| 06/27/2014 | | Set/Reset Deadlines as to 12 MOTION to Dismiss for Failure to State a Claim Upon which relief May be granted, or Alternatively, Motion to Dismiss the Individual Plaintiffs and Motion for a More Definite Statement MOTION to Dismiss the Individual Plaintiffs MOTION for More Definite Statement, 11 MOTION to Transfer Case to United States District Court Southern District of Indiana , 10 MOTION to Dismiss for Failure to State a Claim: Motion Hearing set for 7/8/2014 at 09:30 AM in Courtroom 2 before Chief Judge Brian A. Jackson. (JDL) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 06/27/2014) |
| 07/08/2014 | 34 | Minute Entry for proceedings held before Chief Judge Brian A. Jackson: Motion Hearing held on 7/8/2014 re 12 MOTION to Dismiss for Failure to State a Claim Upon which relief May be granted, or Alternatively, Motion to |

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| | | Dismiss the Individual Plaintiffs and Motion for a More Definite Statement MOTION to Dismiss the Individual Plaintiffs MOTION for More Definite Statement filed by Louisiana's First Choice Auto Auction, L.L.C., 11 MOTION to Transfer Case to United States District Court Southern District of Indiana filed by Nextgear Capital, Inc., 25 MOTION to Amend 1 Complaint, filed by Donald B. Richardson, Red Barn Motors, Inc., Barbara A. Richardson, 10 MOTION to Dismiss for Failure to State a Claim filed by Nextgear Capital, Inc. The Court hears oral argument on pending motions. The Court will take these matters under advisement and issue a written ruling within the next two weeks. (Court Reporter Clare Smith-Neely.) (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (PJH) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 07/14/2014) |
| 09/29/2014 | 35 | RULING AND ORDER granting 11 Motion to Transfer Case. This matter is transferred to the Southern District of Indiana. Signed by Chief Judge Brian A. Jackson on 09/29/2014. (NLT) [Transferred from Louisiana Middle on 9/30/2014.] (Entered: 09/29/2014) |
| 09/30/2014 | 36 | Case transferred in from District of Louisiana Middle; Case Number 3:13-cv-00778. Original file copy of transfer order and docket sheet received. (Entered: 09/30/2014) |
| 01/07/2015 | 37 | MOTION to Substitute Attorney , filed by Defendant NEXTGEAR CAPITAL, INC.. (Attachments: # 1 Text of Proposed Order)(Groth, Steven) (Entered: 01/07/2015) |
| 01/12/2015 | 38 | ORDER granting 37 Motion to Substitute Attorney. Attorney Robin B. Cheatham withdrawn and Steven D. Groth is added as counsel for Nextgear Capital, Inc. Signed by Magistrate Judge Denise K. LaRue on 1/12/2015. (CBU) (Entered: 01/12/2015) |
| 01/13/2015 | 39 | NOTICE of Appearance by David J. Jurkiewicz on behalf of Defendant NEXTGEAR CAPITAL, INC.. (Jurkiewicz, David) (Entered: 01/13/2015) |
| 01/14/2015 | 40 | NOTICE to File Corporate Disclosure Statement to NEXTGEAR CAPITAL, INC.. (LAB) (MGG) (Entered: 01/14/2015) |
| 01/15/2015 | 41 | Corporate Disclosure Statement by NEXTGEAR CAPITAL, INC. identifying Corporate Parent COX ENTERPRISES, INC., Corporate Parent MANHEIM INVESTMENTS, INC., Corporate Parent Cox Automotive, Inc. for NEXTGEAR CAPITAL, INC... (Groth, Steven) (Entered: 01/15/2015) |
| 02/04/2015 | 42 | SCHEDULING ORDER - Initial Pretrial Conference set for 3/3/2015 at 11:00 AM in room #255, United States Courthouse, 46 E. Ohio Street, Indianapolis, Indiana before Magistrate Judge Denise K. LaRue. **SEE ORDER**. Copies Mailed. Signed by Magistrate Judge Denise K. LaRue on 2/4/2015.(MGG) (Entered: 02/04/2015) |
| 02/10/2015 | 43 | Unopposed MOTION for Continuance of Initial Pretrial Conference, filed by Defendant NEXTGEAR CAPITAL, INC.. (Attachments: # 1 Text of Proposed |

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| | | Order)(Groth, Steven) (Entered: 02/10/2015) |
| 02/12/2015 | 44 | ORDER granting 43 Motion to Continue Initial Pretrial Conference. The Initial Pretrial Conference shall be continued to 4/6/2015, at 9:00 AM, EST, in room #255, United States Courthouse, 46 E. Ohio Street, Indianapolis, Indiana before Magistrate Judge Denise K. LaRue. Other than the date and time, the Scheduling Order 42 remains in full force. Signed by Magistrate Judge Denise K. LaRue on 2/12/2015.(JLM) (Entered: 02/12/2015) |
| 04/02/2015 | 45 | CASE MANAGEMENT PLAN TENDERED, filed by Defendant NEXTGEAR CAPITAL, INC. . (Groth, Steven) (Entered: 04/02/2015) |
| 04/14/2015 | 46 | MINUTE ENTRY for proceedings held before Magistrate Judge Denise K. LaRue: Initial Pretrial Conference held on 4/6/2015 - A discussion was held regarding case status and related matters. This matter is stayed for a period of 60 days or within 10 days of a ruling by the 5th Circuit, whichever occurs first. Telephonic Status Conference set for 6/16/2015 at 10:00 AM before Magistrate Judge Denise K. LaRue. Counsel will receive call-in instructions for the conference via separate email notification. The conference concluded without further order. Signed by Magistrate Judge Denise K. LaRue. (copies mailed to unregistered counsel.) (REO) Modified on 4/14/2015 (REO). (Entered: 04/14/2015) |
| 06/24/2015 | 48 | MINUTE ENTRY for proceedings held before Magistrate Judge Denise K. LaRue: Status Conference held on 6/16/2015 - Parties report that the mandamus writ is still pending with the 5th Circuit. All agree that the issues before the 5th Circuit are threshold and, therefore, the stay in this case is continued until a ruling issues from the 5th Circuit. This matter is set for a telephonic status conference on TUESDAY, AUGUST 25, 2015, AT 4:00 P.M., EASTERN. Counsel will receive call-in instructions for the conference via separate email notification. The conference concluded without further order. Signed by Magistrate Judge Denise K. LaRue. (REO) (Entered: 06/24/2015) |
| 07/23/2015 | 49 | NOTICE REGARDING WRIT OF MANDAMUS RULING, filed by Defendant NEXTGEAR CAPITAL, INC. (Attachments: # 1 Exhibit A - Fifth Circuit Court of Appeals Ruling on Writ of Mandamus) (Groth, Steven) (Entered: 07/23/2015) |
| 09/01/2015 | 51 | MOTION for Attorney Lisa Brener to Appear pro hac vice (Filing fee \$30.00, receipt number IP047356), filed by Defendant LOUISIANA'S FIRST CHOICE AUTO AUCTION, L.L.C. (Attachments: # 1 Text of Proposed Order, # 2 Cover Letter, # 3 Envelope)(CBU) (Entered: 09/02/2015) |
| 09/03/2015 | 52 | MOTION for Attorney Cassie E. Felder to Appear pro hac vice (Filing fee \$30.00, receipt number IP047384), filed by Plaintiffs RED BARN MOTORS, INC., BARBARA A. RICHARDSON and DONALD B. RICHARDSON. (Attachments: # 1 Text of Proposed Order, # 2 Cover Letter, # 3 Envelope) (CBU) (Entered: 09/04/2015) |
| 09/03/2015 | 53 | MOTION for Attorney Joshua P. Melder to Appear pro hac vice (Filing fee |

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| | | \$30.00, receipt number IP047384), filed by Plaintiffs RED BARN MOTORS, INC., BARBARA A. RICHARDSON and DONALD B. RICHARDSON. (Attachments: # 1 Text of Proposed Order, # 2 Cover Letter, # 3 Envelope) (CBU) (Entered: 09/04/2015) |
| 09/09/2015 | 54 | ORDER granting 52 Motion to Appear pro hac vice. Attorney Cassie E. Felder for RED BARN MOTORS, INC., BARBARA A. RICHARDSON and DONALD B. RICHARDSON added. Signed by Magistrate Judge Denise K. LaRue on 9/9/2015 (dist made) (CBU) (Entered: 09/10/2015) |
| 09/09/2015 | 55 | ORDER granting 53 Motion to Appear pro hac vice. Attorney Joshua P. Melder for RED BARN MOTORS, INC., BARBARA A. RICHARDSON and DONALD B. RICHARDSON added. Signed by Magistrate Judge Denise K. LaRue on 9/9/2015 (dist made) (CBU) (Entered: 09/10/2015) |
| 09/10/2015 | 56 | ORDER granting Lisa Brener's 51 Motion to Appear pro hac vice on behalf of Defendant Louisiana's First Choice Auto Auction L.L.C. Copy to Lisa Brener via US Mail. Signed by Magistrate Judge Denise K. LaRue on 9/10/2015. (SWM) (Entered: 09/10/2015) |
| 10/05/2015 | 57 | SCHEDULING ORDER-TELEPHONIC Status Conference set for 10/8/2015 at 3:00 PM before Magistrate Judge Denise K. LaRue. Signed by Magistrate Judge Denise K. LaRue on 10/5/2015.(CBU) (Entered: 10/05/2015) |
| 10/09/2015 | 59 | MINUTE ENTRY for proceedings held before Magistrate Judge Denise K. LaRue: Status Conference held on 10/8/2015 - A discussion was held regarding discovery, settlement, case management plan ("CMP") and related matters. The CMP is approved as amended. This matter is set for a telephonic status conference on TUESDAY, DECEMBER 29, 2015, AT 10:00 A.M., EASTERN. Counsel will receive call-in instructions for the conference via separate email notification. This matter will be set for a settlement conference under separate order. The conference concluded without further order. Signed by Magistrate Judge Denise K. LaRue. (REO) (Entered: 10/09/2015) |
| 10/09/2015 | 60 | ORDER: CASE MANAGEMENT PLAN APPROVED AS AMENDED. Dispositive Motions due by 4/30/2016. Discovery due by 3/30/2016. Signed by Magistrate Judge Denise K. LaRue on 10/9/2015.(SWM) (Entered: 10/09/2015) |
| 10/09/2015 | 61 | SCHEDULING ORDER: Settlement Conference set for 1/25/2016 01:30 PM (Eastern) in room #255, United States Courthouse, 46 E. Ohio Street, Indianapolis, Indiana before Magistrate Judge Denise K. LaRue. On or before five (5) business days before the settlement conference, the parties shall submit (not file) a confidential settlement statement (see Order for additional information). Signed by Magistrate Judge Debra McVicker Lynch on 10/9/2015.(SWM) (Entered: 10/09/2015) |
| 10/09/2015 | 62 | ORDER: CASE MANAGEMENT PLAN APPROVED AS AMENDED. Dispositive Motions due by 4/30/2016. Discovery due by 3/30/2016. Signed by Magistrate Judge Denise K. LaRue on 10/9/2015.(SWM) (Entered: 10/09/2015) |

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| 10/09/2015 | <u>63</u> | ***PLEASE DISREGARD DUPLICATIVE***ORDER: CASE MANAGEMENT PLAN APPROVED AS AMENDED. Discovery due by 3/30/2016. Dispositive Motions due by 4/30/2016. Signed by Magistrate Judge Denise K. LaRue on 10/9/2015.(CBU) Modified on 10/14/2015 (CBU). (Entered: 10/13/2015) |
| 10/14/2015 | <u>64</u> | ORDER grants Plaintiffs' re <u>25</u> motion for leave to file amended complaint. Plaintiffs are ORDERED to file their Amended Complaint in its entirety within 7 days of this date. Signed by Magistrate Judge Denise K. LaRue on 10/14/2015.(CBU) (Entered: 10/14/2015) |
| 11/04/2015 | <u>65</u> | NOTICE of Voluntary Dismissal, filed by Plaintiffs BARBARA A. RICHARDSON, DONALD B. RICHARDSON. (Melder, Joshua) (Entered: 11/04/2015) |
| 11/04/2015 | <u>66</u> | MOTION for relief from order granting leave to amend complaint, filed by Plaintiffs RED BARN MOTORS, INC., BARBARA A. RICHARDSON, DONALD B. RICHARDSON. (Melder, Joshua) (Entered: 11/04/2015) |
| 11/05/2015 | <u>68</u> | DISMISSAL - The court acknowledges the Notice of Dismissal filed by Plaintiffs BARBARA A. RICHARDSON, DONALD B. RICHARDSON. Wherefore, Plaintiffs, Donald B. Richardson and Barbara A. Richardson, pursuant to Fed. R. Civ. P. 41(a)(1)(A), file this Notice of Dismissal voluntarily dismissing their claims in the captioned matter against Defendants, NextGear Capital, Inc., and Louisiana's First Choice Auto Auction, L.L.C., without prejudice. Signed by Judge Tanya Walton Pratt on 11/5/2015.(JLS) (Entered: 11/06/2015) |
| 11/06/2015 | <u>67</u> | ORDER granting <u>66</u> Motion for relief from Order granting motion for leave to amend the complaint. The original Complaint <u>1</u> shall remain the operative document. Signed by Magistrate Judge Denise K. LaRue on 11/6/2015. (CBU) (Entered: 11/06/2015) |
| 11/13/2015 | <u>69</u> | NOTICE of Service of Initial Disclosures , filed by Defendant NEXTGEAR CAPITAL, INC.. (Groth, Steven) (Entered: 11/13/2015) |
| 11/13/2015 | <u>70</u> | MOTION for Extension of Time to 11/16/2015 , filed by Plaintiff RED BARN MOTORS, INC.. (Attachments: # <u>1</u> Text of Proposed Order)(Melder, Joshua) (Entered: 11/13/2015) |
| 11/16/2015 | <u>71</u> | Second MOTION for Extension of Time to 12/1/2015 , filed by Plaintiff RED BARN MOTORS, INC.. (Attachments: # <u>1</u> Text of Proposed Order)(Melder, Joshua) (Entered: 11/16/2015) |
| 11/16/2015 | <u>72</u> | SCHEDULING ORDER - Final Pretrial Conference set for 12/14/2016 at 09:00 AM in room #330, United States Courthouse, 46 E. Ohio Street, Indianapolis, Indiana before Judge Tanya Walton Pratt. Jury Trial set for 1/9/2017 at 09:00 AM in room #344, United States Courthouse, 46 E. Ohio Street, Indianapolis, Indiana before Judge Tanya Walton Pratt. The final pretrial conference is for attorneys only. At the final pretrial conference, Counsel shall be prepared to discuss the status of the action, including all |

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| | | matters requiring completion preparatory to trial. Signed by Judge Tanya Walton Pratt on 11/16/2015.(JLS) (Entered: 11/17/2015) |
| 11/17/2015 | <u>74</u> | ORDER REFERRING MOTION: <u>10</u> Motion to Dismiss Pursuant to Rule 12 (B)(6) for Failure to State a Claim filed by NEXTGEAR CAPITAL, INC.and <u>12</u> filed by LOUISIANA'S FIRST CHOICE AUTO AUCTION, L.L.C. Signed by Judge Tanya Walton Pratt on 11/17/2015. Motions referred to Denise K. LaRue.(JLS) (Entered: 11/18/2015) |
| 11/18/2015 | <u>73</u> | COURTROOM PROCEDURES AND TRIAL PRACTICE before Judge Tanya Walton Pratt. (TRG) (Entered: 11/18/2015) |
| 11/24/2015 | <u>75</u> | ORDER <u>70</u> Motion for Extension of Time is moot. Order granting <u>71</u> Motion for Extension of Time deadlines extended two weeks. Signed by Magistrate Judge Denise K. LaRue on 11/24/2015. (CBU) (Entered: 11/24/2015) |
| 12/01/2015 | <u>76</u> | NOTICE of Service of Initial Disclosures , filed by Plaintiff RED BARN MOTORS, INC.. (Melder, Joshua) (Entered: 12/01/2015) |
| 12/01/2015 | <u>77</u> | NOTICE of Service of Settlement Demand and Statement of Special Damages, filed by Plaintiff RED BARN MOTORS, INC. (Melder, Joshua) (Entered: 12/01/2015) |
| 12/01/2015 | <u>78</u> | Exhibit List , filed by Plaintiff RED BARN MOTORS, INC., Witness List , filed by Plaintiff RED BARN MOTORS, INC.. (Melder, Joshua) (Entered: 12/01/2015) |
| 12/02/2015 | <u>79</u> | BRIEF/MEMORANDUM in Support re <u>10</u> Motion to Dismiss, filed by Defendant NEXTGEAR CAPITAL, INC.. (Attachments: # <u>1</u> Exhibit 1 - Bankruptcy Docket)(Jurkiewicz, David) (Entered: 12/02/2015) |
| 12/11/2015 | <u>80</u> | Third MOTION for Extension of Time, filed by Plaintiff RED BARN MOTORS, INC.. (Attachments: # <u>1</u> Text of Proposed Order)(Melder, Joshua) (Entered: 12/11/2015) |
| 12/11/2015 | <u>81</u> | REPORT AND RECOMMENDATIONS re <u>10</u> Motion to Dismiss for Failure to State a Claim be denied and <u>12</u> Motion to Dismiss for Failure to State a Claim be denied. Signed by Magistrate Judge Denise K. LaRue on 12/11/2015.(CBU) (Entered: 12/14/2015) |
| 12/14/2015 | <u>82</u> | NOTICE of Voluntary Dismissal, filed by Plaintiff RED BARN MOTORS, INC.. (Melder, Joshua) (Entered: 12/14/2015) |
| 12/14/2015 | <u>83</u> | NOTICE of Consent by All Defendants to Plaintiff's Motion for Extension of Time, filed by Plaintiff RED BARN MOTORS, INC. (Melder, Joshua) (Entered: 12/14/2015) |
| 12/14/2015 | <u>84</u> | NOTICE of Voluntary Dismissal, filed by Plaintiff RED BARN MOTORS, INC.. (Melder, Joshua) (Entered: 12/14/2015) |
| 12/15/2015 | <u>85</u> | MARGINAL NOTATION OF APPROVAL re <u>82</u> NOTICE of Voluntary Dismissal - This cause of action DISMISSED without prejudice as to LOUISIANA'S FIRST CHOICE AUTO AUCTION, L.L.C. Signed by Judge |

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| | | Tanya Walton Pratt on 12/15/2015.(JD) Modified on 12/16/2015 (JD). (Entered: 12/16/2015) |
| 12/15/2015 | <u>86</u> | MARGINAL NOTATION OF APPROVAL re <u>84</u> AMENDED NOTICE of Voluntary Dismissal - This cause of action DISMISSED with prejudice as to LOUISIANA'S FIRST CHOICE AUTO AUCTION, L.L.C. Signed by Judge Tanya Walton Pratt on 12/15/2015.(JD) (Entered: 12/16/2015) |
| 12/16/2015 | <u>87</u> | ORDER granting <u>80</u> Motion for filing any motions for leave to amend the pleadings or join additional parties by 1/8/2016. Signed by Magistrate Judge Denise K. LaRue on 12/16/2015. (CBU) (Entered: 12/16/2015) |
| 01/08/2016 | <u>89</u> | MOTION for Leave to File Verified Amended Complaint, filed by Plaintiff RED BARN MOTORS, INC.. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Verified Amended Complaint, # <u>3</u> Exhibit A, # <u>4</u> Exhibit B (part 1), # <u>5</u> Exhibit B (part 2), # <u>6</u> Exhibit C, # <u>7</u> Exhibit D, # <u>8</u> Exhibit E, # <u>9</u> Proposed Summons)(Melder, Joshua) (Entered: 01/08/2016) |
| 01/11/2016 | <u>90</u> | MOTION for Continuance of Settlement Conference, filed by Plaintiff RED BARN MOTORS, INC.. (Attachments: # <u>1</u> Text of Proposed Order)(Melder, Joshua) (Entered: 01/11/2016) |
| 01/12/2016 | <u>91</u> | ORDER granting Plaintiff's <u>90</u> Motion for Continuance: Settlement Conference RESET for 4/4/2016 09:30 AM in room #255, United States Courthouse, 46 E. Ohio Street, Indianapolis, Indiana before Magistrate Judge Denise K. LaRue. Other than the date and time, the Scheduling Order [Dkt. 61] remains in full force. Signed by Magistrate Judge Denise K. LaRue on 1/12/2016.(SWM) (Entered: 01/13/2016) |
| 01/13/2016 | <u>92</u> | ORDER ADOPTING REPORT AND RECOMMENDATIONS NextGear's Motion to Dismiss Pursuant to Rule 12(b)(6) for Failure to State a Claim [dkt. <u>10</u>] is DENIED and that First Choice's Motion to Dismiss for Failure to State a Claim Upon Which Relief May be Granted, or, Alternatively, Motion to Dismiss the Individual Plaintiffs and Motion for a More Definite Statement [dkt. <u>12</u>] is DENIED. Signed by Judge Tanya Walton Pratt on 1/13/2016. (TRG) (Entered: 01/13/2016) |
| 01/14/2016 | <u>93</u> | MINUTE ENTRY for proceedings held before Magistrate Judge Denise K. LaRue: Status Conference held on 12/29/2016 - Parties discussed case status and discovery. This matter is set for a telephonic status conference on TUESDAY, FEBRUARY 23, 2015, AT 4:00 P.M., EASTERN. Counsel will receive call-in instructions for the conference via separate email notification. The conference concluded without further order. Signed by Magistrate Judge Denise K. LaRue. (REO) (Entered: 01/14/2016) |
| 01/14/2016 | <u>94</u> | AMENDED MINUTE ENTRY for proceedings held before Magistrate Judge Denise K. LaRue: Status Conference held on 12/29/2016 - Parties discussed case status and discovery. This matter is set for a telephonic status conference on TUESDAY, FEBRUARY 23, 2016, AT 4:00 P.M., EASTERN. Counsel will receive call-in instructions for the conference via separate email notification. The conference concluded without further order. Signed by |

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| | | Magistrate Judge Denise K. LaRue on 1/14/2016.(REO) (Entered: 01/14/2016) |
| 01/20/2016 | <u>95</u> | MOTION for Extension of Time to March 1, 2016 (Agreed) to Answer Original Complaint and Respond to Motion for Leave to Amend, filed by Defendant NEXTGEAR CAPITAL, INC.. (Attachments: # <u>1</u> Text of Proposed Order)(Groth, Steven) (Entered: 01/20/2016) |
| 01/22/2016 | <u>96</u> | ORDER granting <u>95</u> Motion for Extension of Time to 3/1/2016 to file its answer to Plaintiff's original complaint <u>1</u> and to file its response to plaintiff's motion for leave to amend <u>89</u> . Signed by Magistrate Judge Denise K. LaRue on 1/22/2016. (CBU) (Entered: 01/22/2016) |
| 01/25/2016 | <u>97</u> | MOTION for Attorney(s) James Garner to Appear pro hac vice (Filing fee \$100, receipt number IP049372). (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Envelope)(JLS) (Entered: 01/27/2016) |
| 01/25/2016 | <u>98</u> | MOTION for Attorney(s) Matthew Coman to Appear pro hac vice (Filing fee \$100, receipt number IP049369). (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Envelope)(JLS) (Entered: 01/27/2016) |
| 01/25/2016 | <u>99</u> | MOTION for Attorney(s) Ryan Adams to Appear pro hac vice (Filing fee \$100, receipt number IP049373). (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Envelope)(JLS) (Entered: 01/27/2016) |
| 02/16/2016 | <u>101</u> | ORDER granting <u>97</u> Motion to Appear pro hac vice. Attorney James M. Garner for RED BARN MOTORS, INC. added. Signed by Magistrate Judge Denise K. LaRue on 2/16/2016 (dist made) (CBU) (Entered: 02/16/2016) |
| 02/16/2016 | <u>102</u> | ORDER granting <u>98</u> Motion to Appear pro hac vice. Attorney Matthew M. Coman for RED BARN MOTORS, INC. added. Signed by Magistrate Judge Denise K. LaRue on 2/16/2016 (dist made) (CBU) (Entered: 02/16/2016) |
| 02/16/2016 | <u>103</u> | ORDER granting <u>99</u> Motion to Appear pro hac vice. Attorney Ryan D. Adams for RED BARN MOTORS, INC. added. Signed by Magistrate Judge Denise K. LaRue on 2/16/2016 (dist made) (CBU) (Entered: 02/16/2016) |
| 02/19/2016 | <u>104</u> | NOTICE of Appearance by Paul D. Vink on behalf of Defendant NEXTGEAR CAPITAL, INC.. (Vink, Paul) (Entered: 02/19/2016) |
| 02/19/2016 | <u>105</u> | MOTION for Attorney(s) Kerry A. Murphy to Appear pro hac vice (Filing fee \$100.00, receipt number IP049746), filed by Plaintiff RED BARN MOTORS, INC. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Envelope) (BGT) (Entered: 02/22/2016) |
| 02/19/2016 | <u>106</u> | MOTION for Attorney(s) Lynn E. Swanson to Appear pro hac vice (Filing fee \$100.00, receipt number IP049746), filed by Plaintiff RED BARN MOTORS, INC. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Envelope) (BGT) (Entered: 02/22/2016) |
| 02/24/2016 | <u>107</u> | MOTION for Attorney(s) Gladstone N. Jones to Appear pro hac vice (Filing fee \$100, receipt number IP049814), filed by Plaintiff RED BARN MOTORS, INC., et al. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Envelope)(JLS) |

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| | | (Entered: 02/25/2016) |
| 02/25/2016 | 108 | ORDER granting 105 Motion to Appear pro hac vice. Attorney Kerry A. Murphy for RED BARN MOTORS, INC. added. Signed by Magistrate Judge Denise K. LaRue on 2/25/2016 (dist made) (CBU) (Entered: 02/25/2016) |
| 02/25/2016 | 109 | ORDER granting 106 Motion to Appear pro hac vice. Attorney Lynn E. Swanson for RED BARN MOTORS, INC. added. Signed by Magistrate Judge Denise K. LaRue on 2/25/2016 (dist made) (CBU) (Entered: 02/25/2016) |
| 02/29/2016 | 110 | STIPULATION AS TO LEAVE TO AMEND AND RESPONSE DEADLINE [filed by Plaintiff, Red Barn Motors, Inc., and, filed by Defendant NEXTGEAR CAPITAL, INC.. (Attachments: # 1 Text of Proposed Order) (Jurkiewicz, David) Modified on 3/1/2016 (JLS). (Entered: 02/29/2016) |
| 02/29/2016 | 111 | ORDER granting 107 Motion to Appear pro hac vice. Attorney Gladstone N. Jones for RED BARN MOTORS, INC. added. Signed by Magistrate Judge Denise K. LaRue on 2/29/2016 (dist made) (CBU) (Entered: 02/29/2016) |
| 02/29/2016 | 112 | Joint MOTION for Continuance of Trial and to Reset Trial Date, filed by Plaintiff RED BARN MOTORS, INC.. (Attachments: # 1 Exhibit Proposed Order)(Murphy, Kerry) (Entered: 02/29/2016) |
| 03/01/2016 | 113 | ORDER GRANTING JOINT MOTION TO RESET TRIAL DATE - The final pretrial is set December 14th, 2016 is RESCHEDULED to April 19, 2017 at 11:00 a.m. in Room 330. The jury trial set January 9th, 2017 is RESCHEDULED to commence on May 8th, 2017 at 9:00 a.m. in Courtroom 344, Birch Bayh Federal Building and United States Courthouse, Indianapolis, Indiana. IT IS FURTHER ORDERED that the parties shall file a revised, proposed joint case management plan within thirty (30) days of the date of this Order. Because of the age of this case, parties should anticipate no further continuances of the trial date. Signed by Judge Tanya Walton Pratt on 3/1/2016.(JLS) (Entered: 03/02/2016) |
| 03/02/2016 | 114 | ORDER granting motion for leave to amend 89 and approves 110 stipulation for leave to amend the complaint that the plaintiffs shall docket their Verified Amended Complaint and that the Defendants shall have to and including 4/15/2016 in which to file their response to the Amended Complaint. Signed by Magistrate Judge Denise K. LaRue on 3/2/2016. (CBU) (Entered: 03/02/2016) |
| 03/07/2016 | 115 | MINUTE ENTRY for proceedings held before Magistrate Judge Denise K. LaRue: Status Conference held on 2/23/2016 - Parties discussed case status and readiness for April 4, 2016, settlement conference. Because the defendant intends to file a motion to dismiss on the class issues, the April 4, 2016, settlement date is premature. Therefore, the settlement conference is reset for October 19, 2016, at 1:30 p.m., Eastern, in Room 255 of the U.S. Courthouse, Indianapolis, Indiana. Other than the date and time, the Scheduling Order [Dkt. 61] remains in full force. This matter is set for a telephonic status conference on TUESDAY, SEPTEMBER 20, 2016, AT 4:00 P.M., EASTERN. Counsel will receive call-in instructions for the conference via |

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| | | separate email notification. The conference concluded without further order. Signed by Magistrate Judge Denise K. LaRue. (REO) (Entered: 03/07/2016) |
| 03/07/2016 | <u>116</u> | ORDER (Amended) re <u>89</u> MOTION for Leave to File Verified Amended Complaint filed by RED BARN MOTORS, INC. By March 11, 2016, Plaintiff shall file the Verified Amended Complaint, with the exhibits properly named. Once filed, the Verified Amended Complaint shall become the operative complaint in this matter; Amended Order Approving re <u>110</u> Stipulation - Defendants, having reserved all rights, defenses, and counterclaims regarding the Verified Amended Complaint, shall have to and including April 15, 2016, within which to file their response thereto. It is further ORDERED that no Answer or responsive pleading to the original Complaint in this case is required. (S.O.). Signed by Magistrate Judge Denise K. LaRue on 3/7/2016. (MAC) (Entered: 03/07/2016) |
| 03/11/2016 | <u>117</u> | AMENDED COMPLAINT against NEXTGEAR CAPITAL, INC., Cox Enterprises, Inc., Cox Automotive, Inc., John Wick, filed by RED BARN MOTORS, INC., Young Executive Management & Consulting Services, Inc., Platinum Motors, Inc., Mattingly Auto Sales, Inc.. (Attachments: # <u>1</u> Exhibit A - Demand Promissory Note and Security Agreement (Red Barn & Nextgear/DSC), # <u>2</u> Exhibit B - Red Barn/Nextgear/DSC transaction history, # <u>3</u> Exhibit C - Demand Promissory Note and Security Agreement (Platinum Motors & Nextgear/DSC), # <u>4</u> Exhibit D - Demand Promissory Note and Security Agreement (Mattingly Auto & Nextgear/DSC), # <u>5</u> Exhibit E - Demand Promissory Note and Security Agreement (Executive Auto Group & Nextgear/DSC))(Garner, James) (Entered: 03/11/2016) |
| 03/24/2016 | <u>118</u> | NOTICE of Change of Attorney Information. Consistent with Local Rule 5-3, Cassie E. Felder hereby notifies the Clerk of the court of changed contact information. (Felder, Cassie) (Entered: 03/24/2016) |
| 03/31/2016 | <u>119</u> | MOTION to Stay Discovery Pending a Ruling on Defendants' Motion to Dismiss, filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # <u>1</u> Exhibit A - Plaintiffs' first set of discovery requests)(Vink, Paul) (Entered: 03/31/2016) |
| 03/31/2016 | <u>120</u> | CASE MANAGEMENT PLAN TENDERED, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC., YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC.. (Attachments: # <u>1</u> Exhibit)(Murphy, Kerry) (Entered: 03/31/2016) |
| 04/05/2016 | <u>121</u> | MOTION to Withdraw Lisa Brener, filed by Defendant LOUISIANA'S FIRST CHOICE AUTO AUCTION, L.L.C.. (Attachments: # <u>1</u> Text of Proposed Order)(Brener, Lisa) (Entered: 04/05/2016) |
| 04/06/2016 | <u>122</u> | ORDER granting <u>121</u> Motion to Withdraw Lisa Brener. Signed by Judge Tanya Walton Pratt on 4/6/2016. (JLS) (Entered: 04/07/2016) |
| 04/15/2016 | <u>123</u> | RESPONSE in Opposition re <u>119</u> MOTION to Stay Discovery Pending a |

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| | | Ruling on Defendants' Motion to Dismiss , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC., BARBARA A. RICHARDSON, DONALD B. RICHARDSON, YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC.. (Coman, Matthew) (Entered: 04/15/2016) |
| 04/15/2016 | 124 | NOTICE of Appearance by Paul D. Vink on behalf of Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., JOHN WICK. (Vink, Paul) (Entered: 04/15/2016) |
| 04/15/2016 | 125 | NOTICE of Appearance by David J. Jurkiewicz on behalf of Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., JOHN WICK. (Jurkiewicz, David) (Entered: 04/15/2016) |
| 04/15/2016 | 126 | MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Jurkiewicz, David) (Entered: 04/15/2016) |
| 04/15/2016 | 127 | BRIEF/MEMORANDUM in Support re 126 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # 1 Index of Exhibits, # 2 Exhibit 1 - Complaint, # 3 Exhibit 2 - Entry of Default, # 4 Exhibit 3 - Complaint, # 5 Exhibit 4 - Entry of Default, # 6 Exhibit 5 - Complaint, # 7 Exhibit 6 - Entries of Default)(Jurkiewicz, David) (Entered: 04/15/2016) |
| 04/15/2016 | 128 | MOTION to Strike Jury Demand, filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Jurkiewicz, David) (Entered: 04/15/2016) |
| 04/18/2016 | 129 | Submission of Signature Requirement re 123 Response in Opposition to Motion by MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC., YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC.. (Garner, James) (Entered: 04/18/2016) |
| 04/19/2016 | 130 | Unopposed MOTION for Extension of Time to File Response to 05/16/2016 re 126 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC., YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC.. (Attachments: # 1 Proposed Order)(Garner, James) (Entered: 04/19/2016) |
| 04/20/2016 | 131 | ORDER granting 130 Motion for Extension of Time to File Response to 5/16/2016 re 126 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM . Signed by Judge Tanya Walton Pratt on 4/20/2016. (JLS) (Entered: 04/20/2016) |
| 04/22/2016 | 132 | REPLY in Support of Motion re 119 MOTION to Stay Discovery Pending a Ruling on Defendants' Motion to Dismiss , filed by Defendants COX |

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| | | AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Vink, Paul) (Entered: 04/22/2016) |
| 05/02/2016 | 133 | ORDER denying 119 Motion to Stay Discovery Pending a Ruling on Defendants' Motion to Dismiss. Signed by Magistrate Judge Denise K. LaRue on 5/2/2016. (CBU) (Entered: 05/02/2016) |
| 05/13/2016 | 134 | NOTICE of Appearance by Kathleen Ann DeLaney on behalf of Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC., YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC.. (DeLaney, Kathleen) (Entered: 05/13/2016) |
| 05/16/2016 | 135 | RESPONSE in Opposition re 126 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC., YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC.. (Attachments: # 1 Exhibit 1)(Murphy, Kerry) (Entered: 05/16/2016) |
| 05/26/2016 | 136 | REPLY in Support of Motion re 126 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM (in Support of Motion to Dismiss Amended Complaint), filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # 1 Exhibit 1)(Jurkiewicz, David) (Entered: 05/26/2016) |
| 06/03/2016 | 137 | MOTION for Leave to File Surreply Memorandum in Opposition to Defendants' Motion to Dismiss Amended Complaint, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC., YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC.. (Attachments: # 1 Exhibit Proposed Surreply, # 2 Text of Proposed Order)(Murphy, Kerry) (Entered: 06/03/2016) |
| 06/08/2016 | 138 | Joint MOTION for Protective Order , filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # 1 Exhibit A - Agreement to be Bound by Protective Order)(Jurkiewicz, David) (Entered: 06/08/2016) |
| 06/09/2016 | 139 | RESPONSE in Opposition re 137 MOTION for Leave to File Surreply Memorandum in Opposition to Defendants' Motion to Dismiss Amended Complaint , filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Jurkiewicz, David) (Entered: 06/09/2016) |
| 06/09/2016 | 140 | ORDER granting 138 Motion for Protective Order. Signed by Magistrate Judge Denise K. LaRue on 6/9/2016. (CBU) (Entered: 06/10/2016) |
| 06/23/2016 | 141 | SCHEDULING ORDER-TELEPHONIC Status Conference set for 7/5/2016 at 1:00 PM (Eastern) before Magistrate Judge Denise K. LaRue. The purpose of the conference is to discuss case status and deadlines. Signed by Magistrate Judge Denise K. LaRue on 6/23/2016.(CBU) (Entered: 06/23/2016) |
| 07/15/2016 | 143 | MINUTE ENTRY for proceedings held before Magistrate Judge Denise K. |

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| | | LaRue: Status Conference held on 7/5/2016 - Parties discussed case status. A discussion was held regarding discovery, settlement, case management plan ("CMP") and related matters. The CMP [Dkt. 120] is approved as amended. This matter is set for a telephonic status conference on TUESDAY, SEPTEMBER 20, 2016, AT 11:00 A.M., EASTERN. Counsel will receive call-in instructions for the conference via separate email notification. The settlement conference remains set for October 19, 2016. The conference concluded without further order. Signed by Magistrate Judge Denise K. LaRue. (REO) (Entered: 07/15/2016) |
| 07/15/2016 | 144 | ORDER: CASE MANAGEMENT PLAN APPROVED AS AMENDED. Discovery due by 12/20/2016. Dispositive Motions due by 1/16/2017. Signed by Magistrate Judge Denise K. LaRue on 7/15/2016.(CBU) (Entered: 07/15/2016) |
| 08/23/2016 | 145 | MOTION for Attorney(s) Jason S. McCarter to Appear pro hac vice (Filing fee \$100, receipt number 0756-4021043), filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # 1 Exhibit A - Certification of Jason McCarter, # 2 Text of Proposed Order Granting PHV McCarter)(Jurkiewicz, David) (Entered: 08/23/2016) |
| 08/23/2016 | 146 | MOTION for Attorney(s) Tracey K. Ledbetter to Appear pro hac vice (Filing fee \$100, receipt number 0756-4021065), filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # 1 Exhibit A - Certification of Tracey Ledbetter, # 2 Text of Proposed Order Granting PHV Ledbetter)(Jurkiewicz, David) (Entered: 08/23/2016) |
| 08/25/2016 | 147 | ORDER granting 145 Motion to Appear pro hac vice. Attorney Jason S. McCarter for COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC. and JOHN WICK added. Signed by Magistrate Judge Denise K. LaRue on 8/25/2016 (dist made) (CBU) (Entered: 08/25/2016) |
| 08/25/2016 | 148 | ORDER granting 146 Motion to Appear pro hac vice. Attorney Tracey K. Ledbetter for COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC. and JOHN WICK added. Signed by Magistrate Judge Denise K. LaRue on 8/25/2016 (dist made) (CBU) (Entered: 08/25/2016) |
| 09/15/2016 | 150 | Witness List Preliminary, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC., YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC., Exhibit List Preliminary, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC., YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC.. (Attachments: # 1 Exhibit A)(Murphy, Kerry) (Entered: 09/15/2016) |
| 09/23/2016 | 151 | MINUTE ENTRY for proceedings held before Magistrate Judge Denise K. LaRue: Status Conference held on 9/20/2016 - Parties discussed case status |

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| | | and discovery. Given the pending motion to dismiss and the anticipated motion for class certification motion, the parties are in agreement that the settlement conference set for October 19, 2016 should be vacated. The settlement conference will be reset after a ruling is issued on the motion for class certification. The conference concluded without further order. Signed by Magistrate Judge Denise K. LaRue. (REO) (Entered: 09/23/2016) |
| 09/30/2016 | 152 | MOTION for Voluntary Withdrawal of Young Executive Management & Consulting Services, Inc., as a Named Plaintiff, filed by Plaintiff YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC. (Attachments: # 1 Text of Proposed Order)(Murphy, Kerry) Modified on 9/30/2016 (JLS). Modified on 10/4/2016 (MAC). (Entered: 09/30/2016) |
| 09/30/2016 | 153 | MOTION to Certify Class and Appointment of Class Counsel, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Murphy, Kerry) (Entered: 09/30/2016) |
| 09/30/2016 | 154 | BRIEF/MEMORANDUM in Support re 153 MOTION to Certify Class and Appointment of Class Counsel , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # 1 Appendix of Exhibits, # 2 Exhibit A-Declaration of Red Barn Motors, Inc., # 3 Exhibit B-Declaration of Platinum Motors, Inc., # 4 Exhibit C-Declaration of Mattingly Auto Sales, Inc., # 5 Exhibit D-Declaration of James M. Garner, # 6 Exhibit E-Declaration of Lynn E. Swanson, # 7 Exhibit F-Declaration of Cassie Erin Felder, # 8 Exhibit G-Declaration of Kathleen A. Delaney, # 9 Exhibit H-Sample NextGear Floorplan Agreement for the year 2005, # 10 Exhibit I-Sample NextGear Floorplan Agreement for the year 2006, # 11 Exhibit J-Sample NextGear Floorplan Agreement for the year 2007, # 12 Exhibit K-Sample NextGear Floorplan Agreement for the year 2008, # 13 Exhibit L-Sample NextGear Floorplan Agreement for the year 2009, # 14 Exhibit M-Sample NextGear Floorplan Agreement for the year 2010, # 15 Exhibit N-Sample NextGear Floorplan Agreement for the year 2011, # 16 Exhibit O-Sample NextGear Floorplan Agreement for the year 2012, # 17 Exhibit P-Sample NextGear Floorplan Agreement for the year 2013)(Murphy, Kerry) (Entered: 09/30/2016) |
| 09/30/2016 | 155 | MOTION for Oral Argument on Plaintiffs Motion for Class Certification and Appointment of Class Counsel (R. Doc. 153), filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # 1 Text of Proposed Order)(Murphy, Kerry) (Entered: 09/30/2016) |
| 10/03/2016 | 156 | ORDER granting Plaintiff Young's 152 Motion for Voluntary Withdrawal as a Named Plaintiff. This Order shall be without prejudice to Young's future participation in the above-captioned matter as an absent class member, should the Court grant class certification. Signed by Judge Tanya Walton Pratt on 10/3/2016. (SWM) (Entered: 10/04/2016) |
| 10/14/2016 | 157 | Exhibit List Preliminary, filed by Defendants COX AUTOMOTIVE, INC., |

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| | | COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK, Witness List Preliminary, filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Jurkiewicz, David) (Entered: 10/14/2016) |
| 10/17/2016 | 158 | MOTION for Attorney(s) Catherine E. Lasky to Appear pro hac vice (Filing fee \$100, receipt number IP052880), filed by Plaintiff RED BARN MOTORS, INC., c/s. (Attachments: # 1 Cover Letter, # 2 Envelope)(JLS) (Entered: 10/17/2016) |
| 10/18/2016 | 159 | ORDER granting 158 Motion to Appear pro hac vice. Attorney Catherine E. Lasky for RED BARN MOTORS, INC. added. Signed by Magistrate Judge Denise K. LaRue on 10/18/2016 (dist made) (CBU) (Entered: 10/19/2016) |
| 10/31/2016 | 160 | RESPONSE in Opposition re 153 MOTION to Certify Class and Appointment of Class Counsel , filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., LOUISIANA'S FIRST CHOICE AUTO AUCTION, L.L.C., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # 1 Index of Exhibits, # 2 Declaration of Adam Galema, # 3 Exhibit A - Sample NextGear Demand Promissory Note and Loan and Security Agreement, # 4 Exhibit B - Red Barn Transaction Report, # 5 Exhibit C - 3/27/2013 Email from Samantha Snyder, # 6 Exhibit D - Mattingly Transaction Report, # 7 Exhibit E - 11/16/2012 Email from Ute Brandt, # 8 Exhibit F - Platinum DSC Demand Promissory Note and Security Agreement, # 9 Exhibit G - Platinum Transaction Report, # 10 Exhibit H - Complaint Against Platinum, # 11 Exhibit I - Certified Judgment Against Platinum, # 12 Exhibit J - Platinum Document Production, # 13 Exhibit K - NextGears Response to Interrogatory No. 13, # 14 Exhibit L - Red Barn Deposition Excerpts, # 15 Exhibit M - Red Barn DSC Demand Promissory Note and Security Agreement, # 16 Exhibit N - Red Barn Amended Bankruptcy Petition, # 17 Exhibit O - Red Barn Insider Transactions, # 18 Exhibit P - Mattingly Deposition Excerpts, # 19 Exhibit Q - Mattingly 2006 DSC Demand Promissory Note and Security Agreement, # 20 Exhibit R - Mattingly 2009 DSC Demand Promissory Note and Security Agreement, # 21 Exhibit S - Mattingly MAFS Loan and Security Agreement, # 22 Exhibit T - Certified Judgment Against Mattingly, # 23 Exhibit U - NextGear Proof of Claim, # 24 Exhibit V - Mattingly Small Claims Complaint, # 25 Exhibit W - Mattingly Settlement Agreement and Release) (Ledbetter, Tracey) (Entered: 10/31/2016) |
| 11/08/2016 | 161 | MOTION for Attorney(s) Jacob A. Airey to Appear pro hac vice (Filing fee \$100, receipt number 0756-4119830), filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC., YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC.. (Coman, Matthew) (Entered: 11/08/2016) |
| 11/09/2016 | 162 | Submission of Proposed Order , re 161 MOTION for Attorney(s) Jacob A. Airey to Appear pro hac vice (Filing fee \$100, receipt number 0756-4119830), filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC., YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC.. (Coman, Matthew) |

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| | | (Entered: 11/09/2016) |
| 11/09/2016 | 163 | MOTION for Attorney(s) Jacob A. Airey to Appear pro hac vice (No fee paid with this filing), filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC., YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC.. (Attachments: # 1 Proposed Order)(Coman, Matthew) (Entered: 11/09/2016) |
| 11/10/2016 | 164 | ORDER granting 161 Motion to Appear pro hac vice. Attorney Jacob A. Airey for MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC. and RED BARN MOTORS, INC. added. Signed by Magistrate Judge Denise K. LaRue on 11/10/2016 (dist made) (CBU) (Entered: 11/10/2016) |
| 11/15/2016 | 165 | REPLY in Support of Motion re 153 MOTION to Certify Class and Appointment of Class Counsel , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # 1 Exhibit A-John Wick Deposition Excerpt, # 2 Exhibit B-Stuart LaBauve Deposition Excerpt, # 3 Exhibit C-Galema Deposition, # 4 Exhibit D-Account Summaries, # 5 Exhibit E-NextGear Case Lists, # 6 Exhibit F-Lourdes Givens Deposition Excerpt, # 7 Exhibit G-NextGear Mattingly Notes, # 8 Exhibit H-8/24/12 Email)(Murphy, Kerry) (Entered: 11/15/2016) |
| 12/05/2016 | 166 | MOTION for Leave to File Sur-Reply in Opposition to 153 Plaintiffs' Motion for Class Certification, filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # 1 Defendants' Sur-Reply in Opposition to Plaintiffs' Motion for Class Certification, # 2 Index of Exhibits to Sur-Reply, # 3 Sur-Reply Exhibit A - Plaintiffs Third Set of Requests for Production to NextGear, # 4 Sur-Reply Exhibit B - 10/12/2007 Sample DSC Contract Documentation, # 5 Sur-Reply Exhibit C - 6/21/2011 Sample DSC Contract Documentation, # 6 Sur-Reply Exhibit D - LaBauve Deposition Excerpts, # 7 Sur-Reply Exhibit E - Red Barn Deposition Excerpts, # 8 Sur-Reply Exhibit F - Mattingly Deposition Excerpts, # 9 Sur-Reply Exhibit G - Galema Deposition Excerpts, # 10 Sur-Reply Exhibit H - Amended Responses to Interrogatory No. 14 by Red Barn, Platinum, and Mattingly, # 11 Proposed Order)(Ledbetter, Tracey) Modified on 12/6/2016 (JLS). (Entered: 12/05/2016) |
| 12/07/2016 | 167 | SCHEDULING ORDER-TELEPHONIC Status Conference set for 12/9/2016 at 12:30 PM (Eastern) before Magistrate Judge Denise K. LaRue. The purpose of this conference is to assist the parties in a discovery dispute. Before 4:00pm, EST on December 8, 2016, the parties are directed to email the Magistrate Judge and opposing counsel, a brief outline of the dispute and their respective positions on the issue. Signed by Magistrate Judge Denise K. LaRue on 12/7/2016.(CBU) (Entered: 12/07/2016) |
| 12/09/2016 | 169 | MINUTE ENTRY for proceedings held before Magistrate Judge Denise K. LaRue: Status Conference held on 12/9/2016, in an effort to assist the parties with a discovery dispute. The parties discussed the discovery requests at issue. (See Entry for specifics details.) Signed by Magistrate Judge Denise K. |

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| | | LaRue. (REO) (Entered: 12/09/2016) |
| 12/13/2016 | 170 | ENTRY regarding In Camera Review (See Entry). Signed by Magistrate Judge Denise K. LaRue on 12/13/2016.(CBU) (Entered: 12/13/2016) |
| 12/20/2016 | 171 | SCHEDULING ORDER-TELEPHONIC Status Conference set for 12/28/2016 at 3:00 PM (Eastern) before Magistrate Judge Denise K. LaRue. The purpose of this conference is to assist the parties in a discovery dispute. Signed by Magistrate Judge Denise K. LaRue on 12/20/2016.(CBU) (Entered: 12/20/2016) |
| 12/20/2016 | 172 | Joint MOTION to Modify Case Management Plan, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Murphy, Kerry) (Entered: 12/20/2016) |
| 12/21/2016 | 174 | Submission of Proposed Order Granting Joint Motion to Modify Case Management Plan, re 172 Joint MOTION to Modify Case Management Plan, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Murphy, Kerry) (Entered: 12/21/2016) |
| 12/29/2016 | 175 | MINUTE ENTRY for proceedings held before Magistrate Judge Denise K. LaRue: Status Conference held on 12/28/20162016, to assist the parties with a discovery dispute. (See Entry for specific details.) Signed by Magistrate Judge Denise K. LaRue. (REO) (Entered: 12/29/2016) |
| 12/30/2016 | 176 | Unopposed MOTION to Vacate Trial Date and Amend Case Management Plan, filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # 1 Proposed Order)(Ledbetter, Tracey) (Entered: 12/30/2016) |
| 01/09/2017 | 177 | ORDER GRANTING MOTION TO VACATE TRIAL DATE AND AMEND CASE MANAGEMENT PLAN - The Court having read and considered Defendants' Motion to Vacate Trial Date and Amend Case Management Plan, and for good cause shown, it is hereby ORDERED: Trial will begin on August 28, 2017 at 9:00 a.m. in Courtroom 344 and is anticipated to take 10 days. The trial will be held before the Court and without a jury. The final pre-trial conference shall be held on August 1, 2017 at 2:00 p.m. in Room 330. The deadlines for required pre-trial preparation shall remain as stated in paragraph VIII of the Case Management Plan [Doc. 144]. (See Order.). Signed by Judge Tanya Walton Pratt on 1/9/2017.(JLS) (Entered: 01/10/2017) |
| 01/11/2017 | 178 | Unopposed MOTION to Extend Deadline to File Statements of Claims, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # 1 Order)(Murphy, Kerry) (Entered: 01/11/2017) |
| 01/30/2017 | 179 | MOTION to Withdraw Attorney Appearance OBO Joshua P. Melder, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC., BARBARA A. RICHARDSON, DONALD B. RICHARDSON, YOUNG EXECUTIVE MANAGEMENT & |

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| | | CONSULTING SERVICES, INC.. (Felder, Cassie) (Entered: 01/30/2017) |
| 01/31/2017 | 180 | ORDER granting 179 Motion to Withdraw Attorney Appearance. Attorney Joshua P. Melder withdrawn. Signed by Judge Tanya Walton Pratt on 1/31/2017. (JLS) (Entered: 01/31/2017) |
| 02/28/2017 | 181 | ORDER granting 172 Motion to Modify Case Management Plan. Signed by Magistrate Judge Denise K. LaRue on 2/28/2017. (CBU) (Entered: 02/28/2017) |
| 02/28/2017 | 182 | ORDER granting 178 Motion to extend deadline to file Statement of Claims within 30 days after an Order is entered on Defendants' motion to dismiss. Signed by Magistrate Judge Denise K. LaRue on 2/28/2017. (CBU) (Entered: 02/28/2017) |
| 03/08/2017 | 183 | MOTION in Limine to Exclude Expert Testimony of David P. Hoffman, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # 1 Text of Proposed Order Proposed Order, # 2 Exhibit Exhibit A-David Hoffman Expert Report, # 3 Exhibit Exhibit B-Order Confirming Chapter 11 Plan)(Murphy, Kerry) (Entered: 03/08/2017) |
| 03/22/2017 | 184 | RESPONSE in Opposition re 183 MOTION in Limine to Exclude Expert Testimony of David P. Hoffman , filed by Defendants COX AUTOMOTIVE, INC., COX ENTERPRISES, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 03/22/2017) |
| 03/27/2017 | 185 | ORDER ON PLAINTIFFS' MOTION FOR LEAVE TO FILE SURREPLY - Upon close review of the parties' briefing, the Court determines that the Defendants' Reply Brief did not inject new evidence, arguments, or issues into the Motion to Dismiss. Instead, the Reply Brief provided the Defendants' response to the arguments advanced by the Plaintiffs in their Response Brief. The limited circumstances for allowing a surreply--to address new arguments or evidence raised in the reply brief--are not present in this case, and as a result, the Court DENIES the Plaintiffs' Motion for Leave to File Surreply in Opposition to Defendants' Motion to Dismiss (Filing No. 137). (See Order.) Signed by Judge Tanya Walton Pratt on 3/27/2017. (JLS) (Entered: 03/27/2017) |
| 03/27/2017 | 186 | ORDER ON DEFENDANTS' MOTION TO DISMISS - For the reasons stated herein, Defendants' Motion to Dismiss (Filing No. 126) is granted in part and denied in part. The Plaintiffs' breach of contract claim and constructive fraud claim against NextGear survive the Motion to Dismiss. The substantive RICO claim against NextGear, Cox Automotive, and Mr. Wick also survives dismissal. The claims for RICO conspiracy, unjust enrichment, and tortious interference are dismissed. The Court concludes, however, that these dismissals should be with without prejudice. Fed. R., Civ. P. 15 directs that courts should "freely" grant leave to amend a pleading "when justice so requires." Fed. R. Civ. P. 15 (a)(2). If in fact, Plaintiffs' can plead sufficient facts to support their claims for RICO conspiracy, unjust enrichment, and tortious interference they are granted leave to file a Second Amended |

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| | | Complaint within fourteen (14) days of the date of this Entry. (See Order.) Signed by Judge Tanya Walton Pratt on 3/27/2017. (JLS) (Entered: 03/27/2017) |
| 03/27/2017 | <u>187</u> | ORDER ON DEFENDANTS' MOTION TO STRIKE JURY DEMAND - Because the Plaintiffs contractually waived their right to a jury trial on any claims arising from their contracts with the Defendants, and those contracts are the basis of this litigation, the Court GRANTS the Defendants' Motion to Strike Jury Demand from the Plaintiffs' Amended Complaint (Filing No. <u>128</u>). All claims in this litigation will be tried by the Court. (See Order.) Signed by Judge Tanya Walton Pratt on 3/27/2017. (JLS) Modified on 3/27/2017 (JLS). (Entered: 03/27/2017) |
| 04/10/2017 | <u>188</u> | ANSWER to <u>117</u> Amended Complaint , filed by COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK.(Ledbetter, Tracey) (Entered: 04/10/2017) |
| 04/11/2017 | <u>189</u> | ORDER granting <u>155</u> Motion. The Plaintiffs, Red BarnMotors, Inc., Platinum Motors, Inc., and Mattingly Auto Sales, Inc. is hereby set for oralargument to commence on May 9, 2017 at 10:00 a.m. in Courtroom 344, Birch Bayh Federal Building and U.S. Courthouse, Indianapolis, Indiana. Each side shall be allotted twenty minutes for a total of forty minutes. (See Order.) Signed by Judge Tanya Walton Pratt on 4/11/2017.(JLS) (Entered: 04/11/2017) |
| 04/26/2017 | <u>190</u> | Statement of Claims They Intend to Prove at Trial by MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Coman, Matthew) (Entered: 04/26/2017) |
| 04/26/2017 | <u>191</u> | Statement of Claims and Defenses by COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 04/26/2017) |
| 04/26/2017 | <u>192</u> | MOTION for Summary Judgment , filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 04/26/2017) |
| 04/26/2017 | <u>193</u> | BRIEF/MEMORANDUM in Support re <u>192</u> MOTION for Summary Judgment , filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 04/26/2017) |
| 04/26/2017 | <u>194</u> | MOTION for Partial Summary Judgment on Breach of Contract Claim, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Murphy, Kerry) (Entered: 04/26/2017) |
| 04/26/2017 | <u>195</u> | BRIEF/MEMORANDUM in Support re <u>194</u> MOTION for Partial Summary Judgment on Breach of Contract Claim , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Murphy, Kerry) (Entered: 04/26/2017) |
| 04/26/2017 | <u>196</u> | Designation of Evidence re <u>195</u> Brief/Memorandum in Support of <u>194</u> Motion for Partial Summary Judgment on Breach of Contract Claim, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., |

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| | | RED BARN MOTORS, INC.. (Attachments: # <u>1</u> Exhibit Exhibit A - Excerpt of NextGear 30(b)(6) Deposition Transcript and Exh. 2, # <u>2</u> Exhibit Exhibit B - Excerpt of Adam Galema Deposition Transcript, # <u>3</u> Exhibit Exhibit C - NextGear 1st Amd Disc Responses to Plaintiffs' 1st Set of Disc., # <u>4</u> Exhibit Exhibit D - Excerpt of Jay Cunningham Deposition Transcript and Report, # <u>5</u> Exhibit Exhibit E - Email btwn T. Ledbetter, K. Lasky & K. Murphy, # <u>6</u> Exhibit Exhibit F - Excerpt of David Hoffman Deposition Transcript) (Murphy, Kerry) Modified on 4/27/2017 (JD). (Entered: 04/26/2017) |
| 04/26/2017 | <u>197</u> | Appendix of Exhibits in Support of Motion re <u>192</u> MOTION for Summary Judgment and Brief in Support, filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # <u>1</u> Exhibit 1 - NextGear's Response to Interrogatory 13, # <u>2</u> Exhibit 2 - Red Barns Responses to Interrogatories 6 and 12, # <u>3</u> Exhibit 3 - Mattinglys Responses to Interrogatories 9-12, # <u>4</u> Exhibit 4 - Platinum's Responses to Interrogatories 9-12, # <u>5</u> Exhibit 5 - Notices of 30(b)(6) Depositions, # <u>6</u> Exhibit 6 - Red Barn (London) Deposition Excerpts, # <u>7</u> Exhibit 7 - Red Barn (Richardson) Deposition Excerpts, # <u>8</u> Exhibit 8 - Mattingly Deposition Excerpts, # <u>9</u> Exhibit 9 - Platinum Deposition Excerpts, # <u>10</u> Exhibit 10 - Galema Deposition Excerpts, # <u>11</u> Exhibit 11 - Givens Deposition Excerpts, # <u>12</u> Exhibit 12 - LaBauve Deposition Excerpts, # <u>13</u> Exhibit 13 - 10/31/2016 Declaration of Adam Galema, # <u>14</u> Exhibit 13-A - Sample NextGear Demand Promissory Note and Loan and Security Agreement, # <u>15</u> Exhibit 13-B - Red Barn Transaction Report, # <u>16</u> Exhibit 13-C - 3/27/2013 Email from Samantha Snyder, # <u>17</u> Exhibit 13-D - Mattingly Transaction Report, # <u>18</u> Exhibit 13-E - 11/16/2012 Email from Ute Brandt, # <u>19</u> Exhibit 13-F - Platinum DSC Demand Promissory Note and Security Agreement, # <u>20</u> Exhibit 13-G - Platinum Transaction Report, # <u>21</u> Exhibit 13-H - Complaint Against Platinum, # <u>22</u> Exhibit 13-I - Certified Judgment Against Platinum, # <u>23</u> Exhibit 13-J - Platinum Document Production, # <u>24</u> Exhibit 14 - 4/26/2017 Declaration of Adam Galema, # <u>25</u> Exhibit 15 - Declaration of Mike McKinney, # <u>26</u> Exhibit 16 - Declaration of Jeff Modjeski, # <u>27</u> Exhibit 17 - Declaration of Brandon Walton, # <u>28</u> Exhibit 18 - Declaration of Chuck Werner, # <u>29</u> Exhibit 19 - Declaration of John Wick, # <u>30</u> Exhibit 20 - Excerpts from Expert Report of Jay Cunningham, # <u>31</u> Exhibit 21 - Red Barn DSC Demand Promissory Note and Security Agreement, # <u>32</u> Exhibit 22 - Red Barn Amended Bankruptcy Petition, # <u>33</u> Exhibit 23 - Red Barn Insider Transactions, # <u>34</u> Exhibit 24 - Mattingly 2006 DSC Demand Promissory Note and Security Agreement, # <u>35</u> Exhibit 25 - Mattingly 2009 DSC Demand Promissory Note and Security Agreement, # <u>36</u> Exhibit 26 - Certified Judgment Against Mattingly, # <u>37</u> Exhibit 27 - Platinum DSC Demand Promissory Note and Security Agreement, # <u>38</u> Exhibit 28 - VA State Corporation Commission Business Entity Details)(Ledbetter, Tracey) (Entered: 04/26/2017) |
| 04/28/2017 | <u>198</u> | Amended MOTION to Appoint Counsel Class Counsel, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # <u>1</u> Exhibit A- Declaration of Kerry A Murphy)(Murphy, Kerry) (Entered: 04/28/2017) |

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| 05/05/2017 | <u>199</u> | ENTRY ON DEFENDANTS' MOTION FOR LEAVE TO FILE SUDRREPLY - The proposed brief does not substantively address the Plaintiffs' newly-proposed narrower class or the evidence raised in the Plaintiffs' Reply Brief. It appears that the proposed surreply brief is an attempt by the Defendants to "get the final word." This is not a proper purpose for a surreply brief. As such, the Court DENIES the Defendants' Motion for Leave to File Surreply (Filing No. <u>166</u>). (See Order.) Signed by Judge Tanya Walton Pratt on 5/5/2017. (JLS) (Entered: 05/05/2017) |
| 05/08/2017 | <u>200</u> | Submission of Proposed Order re <u>198</u> Amended MOTION to Appoint Counsel Class Counsel, <u>154</u> Brief/Memorandum in Support, <u>153</u> MOTION to Certify Class and Appointment of Class Counsel Revised Proposed Order by All Plaintiffs. (Murphy, Kerry) Modified on 5/8/2017 (JLS). (Entered: 05/08/2017) |
| 05/10/2017 | <u>201</u> | MINUTE ENTRY for oral argument held before Judge Tanya Walton Pratt on 5/9/2017: Parties appeared by counsel. Argument held. This matter was taken under advisement. Signed by Judge Tanya Walton Pratt. (Court Reporter David Moxley.)(TRG) (Entered: 05/10/2017) |
| 05/12/2017 | <u>202</u> | TRANSCRIPT of Oral Argument held on 05/09/2017 before Judge Tanya Walton Pratt. (30 pages.) Court Reporter/Transcriber: David Moxley (Telephone: (317) 916-8209). Please review <u>Local Rule 80-2</u> for more information on redaction procedures. Redaction Statement due 6/2/2017. Release of Transcript Restriction set for 8/10/2017. (Moxley, David) Released on 8/10/2017 (SWM). (Entered: 05/12/2017) |
| 05/12/2017 | <u>203</u> | NOTICE of FILING of OFFICIAL TRANSCRIPT of Oral Argument held before Judge Tanya Walton Pratt on 05/09/2017 (Moxley, David) (Entered: 05/12/2017) |
| 05/15/2017 | <u>204</u> | NOTICE of Additional Authority Regarding Class Certification, filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK, re <u>153</u> MOTION to Certify Class and Appointment of Class Counsel. (Ledbetter, Tracey) (Entered: 05/15/2017) |
| 05/16/2017 | <u>205</u> | MOTION to Strike <u>204</u> Notice (Other) Defendants' Notice of Additional Authority Regarding Class Certification, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # <u>1</u> Proposed Order)(Murphy, Kerry) (Entered: 05/16/2017) |
| 05/17/2017 | <u>206</u> | RESPONSE in Opposition re <u>205</u> MOTION to Strike <u>204</u> Notice (Other) Defendants' Notice of Additional Authority Regarding Class Certification, filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 05/17/2017) |
| 05/19/2017 | <u>207</u> | RESPONSE in Opposition re <u>194</u> MOTION for Partial Summary Judgment on Breach of Contract Claim, filed by Defendant NEXTGEAR CAPITAL, INC.. (Ledbetter, Tracey) (Entered: 05/19/2017) |
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| 05/19/2017 | <u>208</u> | Appendix of Exhibits in Support of Response in Opposition to Motion re <u>194</u> MOTION for Partial Summary Judgment on Breach of Contract Claim , filed by Defendant NEXTGEAR CAPITAL, INC.. (Attachments: # <u>1</u> Exhibit 29 - NextGear Deposition Excerpts, # <u>2</u> Exhibit 30 - Excerpts from Expert Report of Jeffrey D. Widholm, # <u>3</u> Exhibit 31 - Widholm Deposition Excerpts) (Ledbetter, Tracey) (Entered: 05/19/2017) |
| 05/24/2017 | <u>209</u> | RESPONSE in Opposition re <u>192</u> MOTION for Summary Judgment , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Garner, James) (Entered: 05/24/2017) |
| 05/24/2017 | <u>210</u> | Appendix of Exhibits in Support of Response in Opposition to Motion re <u>192</u> MOTION for Summary Judgment , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14) (Garner, James) (Entered: 05/24/2017) |
| 06/02/2017 | <u>211</u> | REPLY in Support of Motion re <u>194</u> MOTION for Partial Summary Judgment on Breach of Contract Claim , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Murphy, Kerry) (Entered: 06/02/2017) |
| 06/07/2017 | <u>212</u> | REPLY in Support of Motion re <u>192</u> MOTION for Summary Judgment , filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 06/07/2017) |
| 06/21/2017 | <u>213</u> | MOTION for Continuance Final Pretrial Conference and Bench Trial Settings, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # <u>1</u> Text of Proposed Order)(Lasky, Catherine) (Entered: 06/21/2017) |
| 06/21/2017 | <u>214</u> | MOTION to Stay re <u>194</u> MOTION for Partial Summary Judgment on Breach of Contract Claim Ruling, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # <u>1</u> Text of Proposed Order)(Lasky, Catherine) (Entered: 06/21/2017) |
| 06/23/2017 | <u>215</u> | RESPONSE to Motion re <u>213</u> MOTION for Continuance Final Pretrial Conference and Bench Trial Settings , filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # <u>1</u> Text of Proposed Order)(Ledbetter, Tracey) (Entered: 06/23/2017) |
| 06/23/2017 | <u>216</u> | RESPONSE in Opposition re <u>214</u> MOTION to Stay re <u>194</u> MOTION for Partial Summary Judgment on Breach of Contract Claim Ruling , filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 06/23/2017) |
| 06/28/2017 | <u>217</u> | MOTION to Stay Class Discovery, filed by Defendants COX |

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| | | AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # 1 Text of Proposed Order)(Ledbetter, Tracey) (Entered: 06/28/2017) |
| 06/28/2017 | 218 | MOTION in Limine to Exclude Expert Testimony of Dan Wojcik, filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # 1 Exhibit 1 - Expert Report of Dan Wojcik, # 2 Exhibit 2 - Deposition of Dan Wojcik, # 3 Text of Proposed Order)(Ledbetter, Tracey) (Entered: 06/28/2017) |
| 06/29/2017 | 219 | ORDER - granting 213 Motion for Continuance; Bench Trial is reset for 12/4/2017 09:00 AM in room #344, United States Courthouse, 46 E. Ohio Street, Indianapolis, Indiana before Judge Tanya Walton Pratt. Final Pretrial Conference reset for 11/8/2017 02:00 PM in room #344, United States Courthouse, 46 E. Ohio Street, Indianapolis, Indiana before Judge Tanya Walton Pratt. Signed by Judge Tanya Walton Pratt on 6/29/2017.(CKM) (Entered: 06/29/2017) |
| 06/29/2017 | 220 | ORDER - granting in part and denying in part 153 Motion to Certify Class; granting 198 Motion to Appoint Counsel *** SEE ORDER ***. Signed by Judge Tanya Walton Pratt on 6/29/2017. (CKM) (Entered: 06/29/2017) |
| 06/29/2017 | 221 | ORDER REASSIGNING CASE - Pursuant to 28 U.S.C. Section 137 and Local Rule 40-1(f), this matter has been reassigned to Magistrate Judge Debra McVicker Lynch. Judge Denise K. LaRue is no longer assigned to the case. Please include the new case number, 1:14-cv-01589-TWP-DML, on all future filings in this matter. Signed by Judge Jane Magnus-Stinson on 6/29/2017. (NLR) (Entered: 06/29/2017) |
| 06/29/2017 | 222 | Joint MOTION to Reset Witness and Exhibit List Deadline, filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # 1 Text of Proposed Order)(Ledbetter, Tracey) (Entered: 06/29/2017) |
| 06/29/2017 | 223 | ENTRY denying Plaintiffs' 205 Motion to Strike Defendants' Notice of Additional Authority. See Entry. Signed by Judge Tanya Walton Pratt on 6/29/2017. (SWM) (Entered: 06/30/2017) |
| 07/02/2017 | 224 | ORDER granting 222 Motion to Reset Witness and Exhibit List Deadline. All parties shall file and serve their final witness and exhibit lists on or before October 6, 2017. This list should reflect the specific potential witnesses the party may call at trial. It is not sufficient for a party to simply incorporate by reference "any witness listed in discovery" or such general statements. The list of final witnesses shall include a brief synopsis of the expected testimony and counsel's certification that the witness has been interviewed and/or deposed. Signed by Judge Tanya Walton Pratt on 7/2/2017. (LBT) (Entered: 07/03/2017) |
| 07/02/2017 | 225 | ORDER ON PLAINTIFFS' MOTION IN LIMINE TO EXCLUDE EXPERT TESTIMONY - 183 Motion in Limine is DENIED. An order in limine is not a final, appealable order. Evidentiary rulings regarding Hoffman's anticipated |

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| | | testimony are deferred until trial so that questions of foundation, relevancy, and prejudice can be resolved in context. If the parties believe that specific evidence is inadmissible during the course of the trial, counsel may raise specific objections to that evidence. See Order for details. Signed by Judge Tanya Walton Pratt on 7/2/2017. (LBT) (Entered: 07/03/2017) |
| 07/03/2017 | <u>226</u> | RESPONSE in Opposition re <u>217</u> MOTION to Stay Class Discovery , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Murphy, Kerry) (Entered: 07/03/2017) |
| 07/11/2017 | <u>227</u> | SCHEDULING ORDER-TELEPHONIC Status Conference set for 7/25/2017 at 11:00 AM before Magistrate Judge Debra McVicker Lynch. Signed by Magistrate Judge Debra McVicker Lynch on 7/11/2017.(CUB) (Entered: 07/11/2017) |
| 07/12/2017 | <u>228</u> | MOTION for Reconsideration re <u>220</u> Order on Motion to Certify ClassOrder on Motion to Appoint Counsel and/or, MOTION to Modify , filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 07/12/2017) |
| 07/12/2017 | <u>229</u> | RESPONSE in Opposition re <u>218</u> MOTION in Limine to Exclude Expert Testimony of Dan Wojcik , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Garner, James) (Entered: 07/12/2017) |
| 07/14/2017 | <u>230</u> | MOTION to Stay Class Discovery and Notice to the Class, filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # <u>1</u> Exhibit A - Plaintiffs' Fourth, Fifth and Sixth Set of Discovery Requests to NextGear, # <u>2</u> Exhibit B - NextGear 30(b)(6) Dep. Excerpts, # <u>3</u> Exhibit C - Adam Galema Declaration, # <u>4</u> Text of Proposed Order)(Jurkiewicz, David) (Entered: 07/14/2017) |
| 07/19/2017 | <u>231</u> | REPLY in Support of Motion re <u>218</u> MOTION in Limine to Exclude Expert Testimony of Dan Wojcik , filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 07/19/2017) |
| 07/26/2017 | <u>232</u> | RESPONSE in Opposition re <u>228</u> MOTION for Reconsideration re <u>220</u> Order on Motion to Certify ClassOrder on Motion to Appoint Counsel and/or MOTION to Modify Class Certification Order, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Murphy, Kerry) (Entered: 07/26/2017) |
| 07/26/2017 | <u>233</u> | ENTRY from Status Conference held before Magistrate Judge Debra McVicker Lynch on 7/25/2017. The conference was held and concluded without further order. Signed by Magistrate Judge Debra McVicker Lynch. (KGK) (Entered: 07/27/2017) |
| 07/28/2017 | <u>234</u> | RESPONSE in Opposition re <u>230</u> MOTION to Stay Class Discovery and Notice to the Class , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # |

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| | | <u>1</u> Exhibit A - Deposition Excerpts of Adam Galema 11.10.16)(Garner, James) (Entered: 07/28/2017) |
| 08/02/2017 | <u>235</u> | REPLY in Support of Motion re <u>228</u> MOTION for Reconsideration re <u>220</u> Order on Motion to Certify Class Order on Motion to Appoint Counsel and/or MOTION to Modify , filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 08/02/2017) |
| 08/04/2017 | <u>236</u> | REPLY in Support of Motion re <u>230</u> MOTION to Stay Class Discovery and Notice to the Class , filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 08/04/2017) |
| 08/10/2017 | <u>237</u> | MOTION to Modify Class Certification Order to Narrow Class, filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # <u>1</u> 8/10/2017 Declaration of Adam Galema, # <u>2</u> Exhibit A - NextGear Demand Promissory Note and Loan and Security Agreement (2013 Note), # <u>3</u> Exhibit B - Redacted List of Dealers)(Ledbetter, Tracey) (Entered: 08/10/2017) |
| 08/11/2017 | <u>238</u> | ORDER - The court GRANTS the plaintiffs' motion Dkt. 214 to delay ruling on their motion for partial summary judgment on their breach of contract claim until notice is given and the opt-out period has expired. The court DENIES the defendants' motion to stay class discovery, at Dkt. <u>217</u> , but without prejudice to the arguments they have made in their more recent discovery motion, at Dkt. 230. Signed by Magistrate Judge Debra McVicker Lynch on 8/11/2017. (CKM) (Entered: 08/11/2017) |
| 08/11/2017 | <u>239</u> | ORDER on Motion to Stay Class Discovery and Class Notice; The defendants' motion Dkt. <u>230</u> to stay class discovery and notice to the class is GRANTED IN PART AND DENIED IN PART as provided in this order. Signed by Magistrate Judge Debra McVicker Lynch on 8/11/2017. *** SEE ORDER *** (CKM) (Entered: 08/11/2017) |
| 08/23/2017 | <u>240</u> | Defendants' Objections to Magistrate Judge's Orders on Motions to Stay, and Request to Stay Discovery Regarding Subset of Class re <u>239</u> Order on Motion to Stay and <u>238</u> Order on Motion , filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) Modified on 8/29/2017 (TRG). (Entered: 08/23/2017) |
| 08/24/2017 | <u>241</u> | RESPONSE in Opposition re <u>237</u> MOTION to Modify Class Certification Order to Narrow Class , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Murphy, Kerry) (Entered: 08/24/2017) |
| 08/29/2017 | <u>242</u> | RESPONSE in Opposition to <u>240</u> Defendants' Objections to Magistrate Judge's Orders , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Murphy, Kerry) Modified on 8/30/2017 to create link to related document (MEJ). (Entered: 08/29/2017) |

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| 08/31/2017 | <u>243</u> | REPLY in Support of Motion re <u>237</u> MOTION to Modify Class Certification Order to Narrow Class , filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 08/31/2017) |
| 09/01/2017 | <u>244</u> | MOTION for Protective Order , filed by Defendant NEXTGEAR CAPITAL, INC.. (Ledbetter, Tracey) (Entered: 09/01/2017) |
| 09/05/2017 | <u>245</u> | REPLY in Support of Motion re <u>240</u> Objection to Magistrate Judge's Orders, filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Vink, Paul) (Entered: 09/05/2017) |
| 09/08/2017 | <u>246</u> | RESPONSE in Opposition re <u>244</u> MOTION for Protective Order , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # <u>1</u> Exhibit A (NextGear's First Amended Responses and Objections to Plaintiffs' Fourth Set of Written Discovery))(Murphy, Kerry) (Entered: 09/08/2017) |
| 09/15/2017 | <u>247</u> | NOTICE Joint Notice Regarding Form of Class Notice, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC. (Attachments: # <u>1</u> Exhibit A (class notice with arbitration language), # <u>2</u> Exhibit B (class notice without arbitration language)) (Murphy, Kerry) (Entered: 09/15/2017) |
| 09/15/2017 | <u>248</u> | REPLY in Support of Motion re <u>244</u> MOTION for Protective Order , filed by Defendant NEXTGEAR CAPITAL, INC.. (Ledbetter, Tracey) (Entered: 09/15/2017) |
| 09/22/2017 | <u>249</u> | MOTION to Proceed with Class Notice to Known Class Members and Proposed Procedures for Providing Notice to Class Members Pursuant to Rule 23(c)(2)(B), filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Text of Proposed Order)(Murphy, Kerry) (Entered: 09/22/2017) |
| 10/04/2017 | <u>250</u> | ORDER denying Defendants' <u>244</u> Motion for Protective Order. The court DENIES the motion. It already ruled on this issue in the Order on Motion to Stay Class Discovery and Class Notice, at Dkt. <u>239</u> . Signed by Magistrate Judge Debra McVicker Lynch on 10/4/2017. (SWM) (Entered: 10/05/2017) |
| 10/06/2017 | <u>251</u> | Joint MOTION for Extension of Time to October 13, 2017 to File Witness and Exhibit List, filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # <u>1</u> Text of Proposed Order) (Ledbetter, Tracey) (Entered: 10/06/2017) |
| 10/06/2017 | <u>252</u> | RESPONSE in Opposition re <u>249</u> MOTION to Proceed with Class Notice to Known Class Members and Proposed Procedures for Providing Notice to Class Members Pursuant to Rule 23(c)(2)(B) , filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 10/06/2017) |
| 10/10/2017 | <u>253</u> | ORDER granting <u>251</u> Motion for Extension of Time to Extend Witness and |

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| | | Exhibit List Deadline. All parties shall file and serve their final witness and exhibit lists on or before October 13, 2017. Signed by Judge Tanya Walton Pratt on 10/10/2017. (MEJ) (Entered: 10/10/2017) |
| 10/12/2017 | 254 | Joint MOTION for Continuance of Trial and Pre-Trial Deadlines, filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Attachments: # 1 Text of Proposed Order)(Ledbetter, Tracey) (Entered: 10/12/2017) |
| 10/13/2017 | 255 | APPEAL OF MAGISTRATE JUDGE DECISION to District Court by COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK re 250 Order on Motion for Protective Order, 248 Reply in Support of Motion (Ledbetter, Tracey) (Entered: 10/13/2017) |
| 10/13/2017 | 256 | ORDER granting 254 Motion for Continuance. The deadline of October 13, 2017 for the parties to file and serve their final witness and exhibit lists; the November 8, 2017 Final Pretrial Conference date; the December 4, 2017 bench trial date; and all associated pretrial deadlines in this matter be and hereby are VACATED, to be reset by the Court in a separate Order. Signed by Judge Tanya Walton Pratt on 10/13/2017. (MEJ) (Entered: 10/13/2017) |
| 10/13/2017 | 257 | REPLY in Support of Motion re 249 MOTION to Proceed with Class Notice to Known Class Members and Proposed Procedures for Providing Notice to Class Members Pursuant to Rule 23(c)(2)(B) , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Murphy, Kerry) (Entered: 10/13/2017) |
| 10/16/2017 | 258 | SCHEDULING ORDER: Bench Trial set for 3/5/2018 at 9:00 AM (Eastern Time) in room #344, United States Courthouse, 46 E. Ohio Street, Indianapolis, Indiana before Judge Tanya Walton Pratt. Final Pretrial Conference set for 2/7/2018 at 11:00 AM (Eastern Time) in room #330, United States Courthouse, 46 E. Ohio Street, Indianapolis, Indiana before Judge Tanya Walton Pratt. Signed by Judge Tanya Walton Pratt on 10/16/2017. (MEJ) (Entered: 10/16/2017) |
| 10/23/2017 | 259 | RESPONSE in Opposition re 255 APPEAL OF MAGISTRATE JUDGE DECISION to District Court by COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK re 250 Order on Motion for Protective Order, 248 Reply in Support of Motion , filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Murphy, Kerry) (Entered: 10/23/2017) |
| 10/30/2017 | 260 | REPLY in Support of Motion re 255 APPEAL OF MAGISTRATE JUDGE DECISION to District Court by COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK re 250 Order on Motion for Protective Order, 248 Reply in Support of Motion , filed by Defendants COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., JOHN WICK. (Ledbetter, Tracey) (Entered: 10/30/2017) |
| 01/12/2018 | 261 | ORDER ON PENDING MOTIONS - For the foregoing reasons, the Court GRANTS the Defendants' Motion to Reconsider (Filing No. 228) and |

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| | | decertifies the Plaintiffs' breach of contract and RICO claims. This litigation will no longer proceed as a class action. The Court DENIES as moot the Defendants' Motion to Narrow Class (Filing No. 237), the Defendants' Objections to Magistrate Judge's Orders (Filing No. 240 ; Filing No. 255), and the Plaintiffs' Motion to Proceed with Class Notice (Filing No. 249). Signed by Judge Tanya Walton Pratt on 1/12/2018. (MEJ) (Entered: 01/12/2018) |
| 01/12/2018 | 262 | ORDER ON MOTIONS FOR SUMMARY JUDGMENT - For the foregoing reasons, the Court DENIES the Plaintiffs' Motion for Partial Summary Judgment on Breach of Contract Claim (Filing No. 194), and GRANTS in part and denies in part the Defendants' Motion for Summary Judgment (Filing No. 192). The Defendants' Motion is GRANTED as to the constructive fraud claim against NextGear and the RICO claim against NextGear, Cox Automotive, and Mr. Wick. With no remaining claims pending against them, Cox Automotive and Mr. Wick are dismissed as defendants. The Defendants' Motion is DENIED as to the breach of contract claim against NextGear, and this claim will proceed to a bench trial. In light of the Court's Order at Filing No. 261 , this litigation will no longer proceed as a class action. Signed by Judge Tanya Walton Pratt on 1/12/2018. (MEJ) (Entered: 01/12/2018) |
| 01/19/2018 | 263 | Joint MOTION for Continuance of Trial and Pre-Trial Deadlines, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC.. (Attachments: # 1 Text of Proposed Order) (Murphy, Kerry) (Entered: 01/19/2018) |
| 01/19/2018 | 264 | ORDER - 218 Motion in Limine is denied as to the expert opinions of Dan Wojcik. Signed by Judge Tanya Walton Pratt on 1/19/2018. (MEJ) (Entered: 01/19/2018) |
| 01/22/2018 | 265 | ORDER - The Court having read and considered the Joint Motion to Continue Trial and Pre-Trial Deadlines 263 , and for good cause shown; that being that the Plaintiffs intend to file a Rule 23(f) petition seeking review of the decertification order prior to January 26, 2018. The February 7, 2018 Final Pretrial Conference date; the March 5, 2018 bench trial date; and all associated pretrial deadlines in this matter be and hereby are VACATED, to be reset by the Court in a separate Order. Signed by Judge Tanya Walton Pratt on 1/22/2018. (MEJ) (Entered: 01/23/2018) |
| 01/23/2018 | 266 | Notification received from 7th Circuit Court of Appeals. Petition for Permission to Appeal filed by RED BARN MOTORS, INC., PLATINUM MOTORS, INC. and MATTINGLY AUTO SALES, INC. assigned Appeal No. 18-8004. (LBT) (Entered: 01/24/2018) |
| 02/22/2018 | 267 | NOTICE OF APPEAL/USCA Order Granting Permission to Appeal re 261 Order on Pending Motions, filed by Plaintiffs MATTINGLY AUTO SALES, INC., PLATINUM MOTORS, INC., RED BARN MOTORS, INC. (Filing fee \$505, receipt number IP059331) (LBT) (Entered: 02/22/2018) |
| 02/22/2018 | 268 | PARTIES' SHORT RECORD re 267 Notice of Appeal - Instructions for Attorneys and Designation of Record information attached. (LBT) |

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| | (Entered: 02/22/2018) |
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